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March 23, 2006

Hon. Edward R. Korman
Chief Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Hon. James Orenstein
Magistrate Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *In re Holocaust Victim Assets Litig.*
*Application of Burt Neuborne* - CV-06-983 (ERK)(JO)

Your Honors:

Pursuant to the Court's direction, on March 17, 2006, the parties exchanged omnibus documents setting forth their respective positions and factual assertions concerning this matter. All documents have been posted on the website maintained by the settlement classes. In accordance with the agreement among counsel that has been submitted to the Court, the record is now closed.

Prior to the exchange of omnibus documents on March 17, the Court had referred the matter to Magistrate Orenstein: (1) to ascertain whether unresolved factual issues are present concerning specific billing entries; and (2) to seek to resolve any outstanding factual issues without the necessity of a protracted satellite litigation. I write to seek guidance as to whether, given the record as it now exists, such a reference remains necessary. Given the existing record, even if every outstanding challenge to one or more of Professor Neuborne's billing entries is deemed valid for the sake of argument, his requested fee of $4,088,500 remains more than $500,000 *lower* than the figure obtained by an undiscounted lodestar calculation in which each of the challenged items are removed from the calculation.

(4) Excess discount assuming elimination of all disputed hours and 17% discount with no excellence or augmentation multiplier........................................$686,407 (or 980 hours)

(5) elimination of "defense of court" hours in connection with 2004 appeals ..............$140,000 (200 hours)

(6) Bedrock excess discount between fee sought ($4,088,500) and net discounted fee ($4,774,907) after deducting all 170 disputed hours and17% academic discount with no excellence or augmentation multiplier.................$546,407

(7) Additional potential issues:

(a) challenge to $700 market lodestar for Professor Neuborne.................. matter of law based on evidence in record

(b) challenge to notice .........................matter of law based on evidence in record

(c) estoppel.................................... matter of law based on evidence in record

(d) macro challenges to year 2000 billings........................ evidentiary record complete

(e) macro challenge to failure to delegate.........................evidentiary record complete

(f) macro challenge to available pro bono alternatives......................evidentiary record complete

(g) unspecified micro challenges to unidentified specific billing entries.................... even if timely, cannot approach excess discount of $546,407 needed to reach discounted fee of $4,088,500 originally sought by counsel

(h) eligibility for excellence or augmentation multiplier....................matter of law based on evidence in record; need not be reached unless contemplated fee falls below requested discounted fee of $4,088,500

Accordingly, we would submit to the Court that there is nothing further to be done to perfect the record. This matter is now fully set for disposition by the Court. Given that the Court is well aware of the record in the case, and given the voluminous record already before the Court, it appears that the remaining issues can be resolved either on the face of the record or by argument of counsel, should the Court deem that necessary. Since the existence of a proffered discount of $1,783,400 moots all factual issues and many legal issues, Professor Neuborne respectfully requests the Court to rule on the remaining legal issues without the necessity of a reference to the Magistrate Judge.

If, despite the 25% discount that Professor Neuborne originally suggested, the Court deems additional proceedings before Magistrate Judge Orenstein necessary, we ask that the proceedings be scheduled immediately.

Sincerely,

Samuel Issacharoff

cc: Samuel J. Dubbin, P.A.
Robert A. Swift
Judah Gibetz
Morris Ratner
Michael Hausfeld
Stephen Whinston
Irwin Levin
Barry Fisher
Roger M. Witten
Melvyn I. Weiss

To be sure, a number of legal issues remain for resolution by the Court, such as: (1) the adequacy of notice; (2) the alleged existence of an estoppel; (3) eligibility for fees for defending the Court's allocation rulings; and (4) the use of a $700 hourly lodestar rate. When one reviews the record, however, given the discount from full lodestar that Professor Neuborne has already suggested, there does not appear to be a need for further protracted factual proceedings prior to the Court's resolution of the outstanding legal issues.

By way of summary, the following constitutes simply the total lodestar, the claimed lodestar compensation, and the various objections. We submit this not to say that there are no disputes, only to say that if this Court were to accept the 25% global reduction (the "standard deduction" approach) rather than an itemized approach, the global reduction more than subsumes all the contested issues.

Under the existing record, the following calculations demonstrate the ripeness of the legal issues for judicial resolution.

Undiscounted Market Lodestar - 8,178.5 hrs @ $700 per hr......$5,731,900

Inadvertently Omitted Hours – 200 hrs @ 700 per hr................$140,000

Full Undiscounted Fee...................................................$5, 871,900

Discounted Fee Suggested by Counsel..............................$4,088,500

Amount of Suggested Discount.......................................$1,783,400 (or 2,547 hours)

*Disputed Hours:*

(1) 170 hours disputed by challengers.........................$119,000
(includes Bazyler article; challenged long weekend billings)

Full undiscounted fee less disputed 170 hours.........................$5,752,900

(2) academic discount on remaining hours using Judge Weinstein's 17% figure in *Agent Orange*, without his offsetting multiplier for excellence of 1.5..........................$977,993

(3) Net Discounted Fee after deducting all 170 disputed hours and Weinstein academic discount.......................................... $4,774,907